

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Fort Worth Division**

OUTSOURCING FACILITIES
ASSOCIATION, et al.,

Plaintiffs,

v.

UNITED STATES FOOD AND DRUG
ADMINISTRATION, et al.,

Defendants.

Civil Action No. 4:24-cv-00953-P

Plaintiffs' Motion for Injunction Pending Appeal

Pursuant to Federal Rule of Civil Procedure 62(d) and 5 U.S.C. § 705, Plaintiffs Outsourcing Facilities Association (“OFA”) and North American Custom Laboratories, LLC, doing business as FarmaKeio Custom Compounding (“FarmaKeio”), hereby move the Court to enter an injunction pending appeal prohibiting the Food and Drug Administration (“FDA”) from taking action against OFA members and FarmaKeio based on their compounding of the drug ingredient tirzepatide pending the appeal in this case so long as the compounding and related action would be permitted if tirzepatide were listed on the drug shortage list.

“To obtain an injunction pending appeal,” a movant “must show (1) a strong likelihood of success on the merits; (2) irreparable injury in the absence of an injunction; (3) that the balance of hardships weighs in their favor if injunctive relief is granted; and (4) that the public interest favors such relief.” *Whole Woman’s Health v. Jackson*, 13 F.4th 434, 441 (5th Cir. 2021). As explained in the attached memorandum of law, Plaintiffs have established these elements, and relief is proper to prevent irreparable harm and preserve the status quo pending the appeal in this case. If the Court disagrees, Plaintiffs respectfully request that it promptly deny this motion to permit Plaintiffs to renew the motion in the Fifth Circuit. In all events, Plaintiffs request a ruling by April 2, 2025. This Motion is accompanied by a memorandum of law in support.

Dated: March 26, 2025

/s/ Ty Doyle

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Certificate of Service

I hereby certify that this document, filed through the CM/ECF system on this day, will be sent via electronic mail to the registered participants as identified on the Notice of Electronic Filing.

Dated: March 26, 2025

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Certificate of Conference

Pursuant to Local Civil Rule 7.1(b), I hereby certify that counsel for Plaintiffs (Richard Raile) conferred with counsel for Defendant (Oliver McDonald) and Intervenor-Defendant (Matthew Rowen) on March 26, 2025, and Defendant and Intervenor-Defendant oppose the relief requested in this motion. It was not possible to reach agreement given differences in the parties' litigation goals.

Dated: March 26, 2025

/s/ Ty Doyle

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